



## DEPARTMENT OF COMMERCE

[RTID 0648-XB398]

### **Review and Comment of National Oceanic and Atmospheric Administration Tribal Consultation Policy and Procedures**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for information.

**SUMMARY:** On January 26, 2021, the White House issued a Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships that reaffirmed Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments (2000) and the associated Presidential Memorandum on Tribal Consultation released in November 2009. In response, NOAA is requesting review of its policy and procedures to implement these directives. NOAA is seeking comment from federally recognized Indian Tribes and other interested parties on its policies and guidance documents for government-to-government consultation with federally recognized Indian Tribes.

**DATES:** Federally recognized Indian Tribes and interested persons are invited to submit comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Responses should be submitted via email to [heather.sagar@noaa.gov](mailto:heather.sagar@noaa.gov). Include “NOAA Tribal Consultation Policy” in the subject line of the message.

*Instructions:* Response to this request for information (RFI) is voluntary. Email attachments will be accepted in plain text, Microsoft Word, or Adobe PDF formats only. Each individual or institution is requested to submit only one response. NOAA may post responses to this RFI, without change, on a Federal website. It is, therefore, requested that no business proprietary information, copyrighted information, or personally

identifiable information be submitted in response to this RFI. Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response.

**FOR FURTHER INFORMATION CONTACT:** Heather Sagar,  
*heather.sagar@noaa.gov*, (301) 427-8019.

**SUPPLEMENTARY INFORMATION:** On January 26, 2021, the White House issued a Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships. The Memorandum requires the Secretary of Commerce to submit to the Director of the Office of Management and Budget (OMB), a detailed plan of actions the agency will take to implement the policies and directives of Executive Order (E.O.) 13175 (2000) and the Presidential Memorandum on Tribal Consultation issued in November 2009. This request for information will inform NOAA's contributions to the Department of Commerce (DOC) plan.

NOAA's mission is to understand and predict changes in climate, weather, oceans, and coasts, to share that knowledge and information with others, and to conserve and manage coastal and marine ecosystems and resources. NOAA has established policies and guidance to provide for meaningful and timely input from federally recognized Indian Tribes into NOAA's decision-making process on policy matters that have tribal implications. In addition, NOAA offers its employees training and other guidance to support a consistent, effective, and proactive approach to conducting government-to-government consultations with federally recognized Indian Tribes under E.O. 13175, the DOC Department Administrative Order 218-8 *Consultation and Coordination with Indian Tribal Governments (2014)*, and the DOC Tribal Consultation and Coordination Policy (78 FR 33331; June 4, 2013).

While much of NOAA's existing policy and guidance has been developed in consultation with federally recognized Indian Tribes, NOAA recognizes that these

documents could benefit from a review and update. As part of its effort to implement the January 26, 2021 Presidential Memorandum, NOAA is requesting comments from Tribal Nations, Tribal officials, members of the public, and other interested parties to help identify appropriate updates or revisions to the following existing NOAA policies and guidance documents, which facilitate NOAA's implementation of E.O. 13175: (1) Tribal Consultation Handbook titled *NOAA Procedures for Government-to-Government Consultation With Federally Recognized Indian Tribes and Alaska Native Corporations (2013)*; (2) NOAA Administrative Order 218-8 titled *Policy on Government-to-Government Consultation with Federally Recognized Indian Tribes and Alaska Native Corporations (Reaffirmed in 2018)*; and (3) a traditional ecological knowledge (TEK) guidance currently titled *NOAA Fisheries and National Ocean Service Guidance and Best Practices for Engaging and Incorporating Traditional Ecological Knowledge in Decision-Making (2019)*. NOAA proposes revisions to its Tribal Consultation Handbook to reflect lessons learned and improved practices to better facilitate meaningful and effective tribal consultations. NOAA also proposes minor revisions to Administrative Order 218-8 to reflect necessary updates since its issuance in 2014. We are also seeking comments on the existing TEK Guidance, which has not been previously made available for public comment. Though the TEK Guidance is only currently implemented by NOAA Fisheries and the National Ocean Service, NOAA is now extending the applicability of the TEK Guidance to all NOAA Offices. NOAA is interested in whether updates or revisions are appropriate for this TEK Guidance, including terminology. Updates or revisions to NOAA's Tribal Consultation Handbook, Administrative Order, and TEK Guidance will be informed by the input we receive from federally recognized Indian Tribes, the public, and other interested parties..

In addition, NOAA plans to hold two consultation webinars with federally recognized Indian Tribes on these policies and guidance documents on January 10 and January 11, 2022.

All three documents and additional information about the webinars can be found at this NOAA website: *<https://www.noaa.gov/legislative-and-intergovernmental-affairs/noaa-tribal-resources-updates>*.

Dated: November 17, 2021.

**Richard W. Spinrad,**

*Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator.*

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